

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Crim. No. 1:16-cr-178
	:	
	:	
v.	:	
	:	
	:	
QUAN LEROY GROSS	:	Judge Sylvia H. Rambo

MEMORANDUM

Before the court is a motion filed by Quan Leroy Gross to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.¹ Gross seeks relief on the basis that he was wrongfully subjected to an enhanced sentence under 18 U.S.C. § 924(e) and that his trial counsel was ineffective for not arguing at sentencing that he was not subject to the enhancement.

I. Discussion

Gross pleaded guilty on July 18, 2017 to count 1 of an indictment for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g) and the enhanced penalty under the Armed Career Criminal Act (“ACCA”) of 18 U.S.C. § 924(e). On December 4, 2017, this Honorable Court sentenced Mr. Gross to 180 months to be followed by a 3-year term of supervised release. (Doc. 81). In the instant motion, Gross alleges that he “does not have the qualifying offenses to be deemed an armed

¹ The Federal Public Defender’s Office was appointed to represent Gross at the time he filed his motion. However, on June 13, 2019, their office filed a motion to withdraw counsel which the court granted.

career criminal” and that his trial counsel was ineffective for failing to make such an argument. (Docs. 84 & 85 at 2-5). However, while Gross had prior convictions for burglary, he also had three prior convictions for serious drug offenses which qualified as predicates for purposes of the ACCA. (*See* Doc. 68, ¶¶ 30, 32 & 33.) Since the enhanced penalty was appropriately applied, Gross’s counsel cannot be deemed incompetent for not arguing against the enhancement. Accordingly, the motion will be denied.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: June 27, 2019